UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 July 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *07/31/2003*.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the application filed on 07/31/2003.

2.   Claims 1- 48 have been examined.

Oath/Declaration

3.   The office acknowledges receipt of a properly signed oath/declaration filed on
07/31/2003.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

5.   Claims 2, 6, 8, 10,14, 22, 26, 30, 34, 38, 42 and 46 are rejected under 35 U.S.C. 112,
second paragraph, as being indefinite for failing to particularly point out and distinctly claim the
subject matter which applicant regards as the invention.

Claims 2, 18 and 34 recite the limitation "the passage of time" in lines 1-2 of each claim.

There is insufficient antecedent basis for this limitation in the claim.

Claims 6, 10, 22, 26, 38 and 42 recite the limitation "the time of the negative response" in

lines 3-4 of each claim. There is insufficient antecedent basis for this limitation in the claim.

Claims 14, 30 and 46 recite the limitation "the software characteristics" in line 2 of each

claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.   Claims 1-15, 17-31 and 33-47 are rejected under 35 U.S.C. 102(b) as being anticipated by

Kenner (US 6,325,565 B1).

As per claim 1, Kenner discloses a method for offering alternative software, comprising:

scanning a computer system of a user to detect software residing on a system of the user

(in column 4, lines 37-45 "… analyze software at the user terminal…");

determining an expiration date for software residing on the computer (in column 6, lines

60-67 "… search is undertaken … if a local script file exists and an expiration data …"); and

offering the user alternative software based on the expiration date of the software (in

column 4, lines 54-63 "… availability of upgrades …" and in column 6, lines 40-45 "… the

most recent version …" and e.g. FIG. 1, element 114 and related text).

As per claim 2, Kenner discloses the method of claim 1, further comprising the step of

monitoring the passage of time until the expiration date and transmitting a message to a

software vendor at predetermined time intervals, wherein the software of the user was not

authored by the software vendor and is detected by a monitoring program (in column 4, lines

30-40 "… determines what components need to … sends the necessary user information …").

As per claim 3, Kenner discloses the method of claim 2, further comprising the step of

providing the monitoring program on at least one of the computer of the user, a computer

network, and a computer of the software vendor (e.g. FIG. 1 and related text).

As per claim 4, Kenner discloses the method of claim 1, wherein the step of scanning the

system comprises the step of detecting fee-based software (in column 7, lines 1-5 "… determine

that old script file has not expired…").

As per claim 5, Kenner discloses the method of claim 1, further comprising, after the offering step, providing the alternative software to the user in response to receiving an affirmative response from the user (e.g. FIG. 1, element 114 and related text).

As per claim 6, Kenner discloses the method of claim 1, further comprising, after the offering step, receiving a negative response from the user and re-notifying the user of the offer for the alternative software at a specified time interval from the time of the negative response (in column 8, lines 20-30 "... upon a user filling out the form ...").

As per claim 7, Kenner discloses the method of claim 1, wherein the expiration date is determined by a monitoring program (in column 11, lines 35-40 "... analyzing expiration date ...").

As per claim 8, Kenner discloses the method of claim 7, wherein the monitoring program resides on the computer of the user and determines the expiration date by scanning at least one of: the files corresponding to registration of the software by the user, file types associated with software, and an installation date of software (in column 11, lines 35-40 "... analyzing expiration date ...").

As per claim 9, Kenner discloses the method of claim 1, wherein the determining step comprises querying the user on the expiration date of software and the offering step is based on a response to the query (in column 7, lines 1-10 "... then queried...").

As per claim 10, Kenner discloses the method of claim 9, further comprising, after the offering step, receiving a negative response from the user and re notifying the user of the offer for the alternative software at a specified time interval from the time of the negative response (in column 8, lines 20-30 "... upon a user filling out the form ...").

As per claim 11, Kenner discloses the method of claim 1, further comprising storing information detected from the software in a database, and customizing alternative software

offers based on the information in the database (in column 7, lines 1-5 "... determine that old script file has not expired...").

As per claim 12, Kenner discloses the method of claim 11, wherein the offering step comprises offering at least one of replacement software, complementary software, and supplementary software (e.g. FIG. 1 and related text).

As per claim 13, Kenner discloses the method of claim 11, further comprising detecting software characteristics selected from the group consisting of type of software, file types associated with the software, expiration date, frequency of use, and date of download or installation (e.g. FIG.2 and related text).

As per claim 1 Kenner discloses the method of claim 13, wherein the offer of alternative software is based on the software characteristics (in column 11, lines 35-40 "... analyzing expiration date ...").

As per claim 15, Kenner discloses the method of claim 1, further comprising the steps of:

installing a monitoring program on the computer system of the user (e.g. FIG. 1, element 118 and related text); and

receiving notification of the expiration date of software on the computer system (in column 7, lines 1-5 "... determine that old script file has not expired...").

As per claim 17, this is the system version of the claimed method discussed above (Claim 1), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 18, this is the system version of the claimed method discussed above (Claim 2), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 19, this is the system version of the claimed method discussed above (Claim 3), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 20, this is the system version of the claimed method discussed above (Claim 4), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 21, this is the system version of the claimed method discussed above (Claim 5), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 22, this is the system version of the claimed method discussed above (Claim 6), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 23, this is the system version of the claimed method discussed above (Claim 7), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 24, this is the system version of the claimed method discussed above (Claim 8), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 25, this is the system version of the claimed method discussed above (Claim 9), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 26, this is the system version of the claimed method discussed above (Claim 10), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 27, this is the system version of the claimed method discussed above (Claim 11), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 28, this is the system version of the claimed method discussed above (Claim 12), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 29, this is the system version of the claimed method discussed above (Claim 13), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 30, this is the system version of the claimed method discussed above (Claim 14), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 31, this is the system version of the claimed method discussed above (Claim 15), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 33, this is the computer-readable medium version of the claimed method discussed above (Claim 1), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 34, this is the computer-readable medium version of the claimed method discussed above (Claim 2), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 35, this is the computer-readable medium version of the claimed method discussed above (Claim 3), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 36, this is the computer-readable medium version of the claimed method discussed above (Claim 4), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 37, this is the computer-readable medium version of the claimed method discussed above (Claim 5), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 38, this is the computer-readable medium version of the claimed method discussed above (Claim 6), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 39, this is the computer-readable medium version of the claimed method discussed above (Claim 7), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 40, this is the computer-readable medium version of the claimed method discussed above (Claim 8), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 41, this is the computer-readable medium version of the claimed method discussed above (Claim 9), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 42, this is the computer-readable medium version of the claimed method discussed above (Claim 10), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 43, this is the computer-readable medium version of the claimed method discussed above (Claim 11), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 44, this is the computer-readable medium version of the claimed method discussed above (Claim 12), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 45, this is the computer-readable medium version of the claimed method discussed above (Claim 13), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 46, this is the computer-readable medium version of the claimed method discussed above (Claim 14), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

As per claim 47, this is the computer-readable medium version of the claimed method discussed above (Claim 15), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also anticipated by Kenner.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 16, 32 and 48 rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner

(US 6,314,565 B1) in view of O'Connor (US 6,931,548 B2).

As per claim 16 a method for detecting fee-based software on a computer of a user and offering alternative software, comprising:

using a monitoring program installed on the computer of the user to scan the computer for fee-based software (in column 4, lines 37-45 "... analyze software at the user terminal...");

determining the expiration date of the software based on the software characteristics selected from the group consisting of type of software, files corresponding to registration of the software by the user, file types associated with the software, frequency of use, and data of download or installation (in column 11, lines 35-40 "... analyzing expiration date ...")

Kenner does not explicity disclose offering at least one from the group consisting of replacement, complementary, and supplementary software based, the offer being on the software characteristics. However O'Connor discloses secondary software program without the key to a particular period of time . O'Connor also discloses replacement of the secondary software program but only by refusing to allow issuance of a key to permit continued use (in column 3, lines 1-15). Therefore it would have been obvious to one ordinary skilled in the art at the time of the invention was made to combine Kenner and O'Connor to offer a user secondary software program for predetermined period of time as once suggested by O'Connor in column 2, lines 60-68)

As per claim 32, this is the system version of the claimed method discussed above (Claim 16), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

As per claim 48, this is the computer-readable medium version of the claimed method discussed above (Claim 16), wherein all claim limitations have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac T. Tecklu whose telephone number is (571) 272-7957. The examiner can normally be reached on M-TH 9:300A - 8:00P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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TUAN DAM
SUPERVISORY PATENT EXAMINER